

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOLENE WINTER,

Plaintiff,

v.

MIKE'S TRUCKING, LTD, *et al.*,

Defendants.

Case No. 2:20-cv-1269

Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

ORDER

This matter is before the Court on Plaintiff Jolene Winter's ("Plaintiff") Motion for Default Judgment Against Defendants Mike's Trucking, LTD., and Michael Culbertson ("Defendants") (ECF No. 10). Federal Rule of Civil Procedure 55 "contemplates a two-step process in obtaining a default judgment against a defendant who has failed to plead or otherwise defend." *Columbus Life Ins. Co. v. Walker-Macklin*, No. 1:15-cv-535, 2016 WL 4007092, at *2 (S.D. Ohio July 26, 2016). First, a plaintiff must request an entry of default from the Clerk of Courts. Fed. R. Civ. P. 55(a). Second, after the Clerk's entry of default, the plaintiff may obtain a default judgment. Fed. R. Civ. P. 55(b). If the plaintiff's claims are for "a sum certain or a sum that can be made certain by computation," the Clerk must enter a default judgment. Fed. R. Civ. P. 55(b)(1). If the plaintiff's claims are not for a sum certain, the plaintiff must apply to the Court for a default judgment. Fed. R. Civ. P. 55(b)(2).

Here, Plaintiff has applied to the Court for default judgment against Defendants under Rule 55(b)(2). However, Plaintiff has not yet requested an entry of default from the Clerk of Courts, and the Clerk has not entered default under Rule 55(a). Thus, because Plaintiff may only apply to the Court for a default judgment after obtaining an entry of default under Rule 55(a), Plaintiff's

motion is not proper procedurally. *See Sieber v. Estate of McRae*, No. 1:11-CV-111, 2012 WL 689033, at *1 (W.D. Ky. Feb. 29, 2012) (holding same).

Accordingly, Plaintiff's Motion for Default Judgment is **DENIED WITHOUT PREJUDICE**. (ECF No. 10.) Plaintiff may apply again for a default judgment after she requests an entry of default from the Clerk and the Clerk enters Defendants' default.

IT IS SO ORDERED.

11/18/2020

DATE

s/Edmund A. Sargus, Jr.

EDMUND A. SARGUS, JR.

UNITED STATES DISTRICT JUDGE